

6-5-00

DAC

Docket No. 1090-019

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of)
Luneau, David J.)
Serial No. To be Assigned)
Filed: March 14, 2000)
For: CALLING PARTY ANNOUNCEMENT)
APPARATUS)



RECEIVED

JUN 6 2000

Box DAC
Commissioner of Patents and Trademarks
Washington, D.C. 20231

OFFICE OF PETITION
DEPUTY A/C PATENT

EXPRESS MAIL CERTIFICATE

Express Mail Label Number: EL492496788US
Date of Deposit June 2, 2000

I hereby certify that the following attached paper and fee:

Check in the Amount of \$130
Petition under §1.181
Exhibits A - E

as being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10 on the date indicated above and is addressed to the Commissioner of Patents and Trademarks, Washington, D.C. 20231.

A handwritten signature in black ink, appearing to read "W. B. Ritchie".

William B. Ritchie, Esq.
Attorney for Applicant
Reg. No. 33,118
43 Jackson Street
Concord, NH 03301
603-225-5212

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of)
Luneau, David J.)
Serial No. To be Assigned)
Filed: March 14, 2000)
For: CALLING PARTY ANNOUNCEMENT)
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OFFICE OF PETITIONS
DEPUTY A/C PATENTS

Box DAC
Commissioner of Patents and Trademarks
Washington, D.C. 20231

PETITION UNDER §1.181

Applicant hereby petitions under 37 C.F.R. §1.181 that filing date of March 14, 2000 be granted to above-identification application.

FACTS

- 1) On March 10, 2000, applicant received notice that U.S. Patent No. 6,038,443 would issue on March 14, 2000. Exhibit A
- 2) At the request of the applicant, a continuing application was filed on March 14, 2000. This application properly referenced the '443 patent application as the parent. No filing fee was included but the name of the inventor was provided. This application was inadvertently identified as a "continued prosecution application CPA" rather than a "continuation" application which was clearly intended. Exhibit B
- 3) The application was sent via express mail, Exhibit C, and the return postcard indicates that the application was date stamped as March 14, 2000. Exhibit D.
- 4.) On April 10, 2000, the applicant received a Notice, dated April 7, 2000, that this application would not be granted the March 14, 2000 filing date. Exhibit E.

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130.00 00

ARGUMENT

As held in *Transco Products Inc. v. Performance Contracting*, 32 USPQ2d 1077 (Fed. Cir. 1994), it is well established law that the various terms for continuing

applications are merely terms of administrative convenience and the bottom line is that, no matter what term is used to describe a continuing application, that application is entitled to benefit of the filing date of an earlier application as to common subject matter. The subject matter and the inventorship of this application are identical to the '433 patent.

It is also well established law that the entire '443 patent may be incorporated by reference, thereby providing a complete written description, claims, and drawings. See, MPEP 608.01(p)(B). Mr. Luneau was also named as the inventor in both applications. Therefore, this application was complete as required under 1.53(b) and should have been accorded the March 14, 2000 filing date, despite the inadvertent use of the term "CPA".

In light of the above, the applicant respectfully requests that the decision in the Notice dated April 4, 2000 be reversed and the filing date of March 14, 2000 be granted the above-referenced patent application.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'William B. Ritchie', is written over the typed name.

William B. Ritchie, Esq.
Attorney for Applicant
Reg. No. 33,118
43 Jackson Street
Concord, NH 03301
603-225-5212



UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

Address: COMMISSIONER OF PATENTS AND TRADEMARK
Washington, D.C. 20231

11-A APPLICATION NUMBER	FILED / RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO./TITLE
LM41/0407	04/13/99	NGUYEN, L	1090-006

WILLIAM B RITCHIE
43 JACKSON STREET
CONCORD NH 03301

LM41/0407

NGUYEN, L

2746

DATE MAILED: 04/07/00

NOTICE OF IMPROPER CPA FILING UNDER 37 CFR 1.53(d)
No Filing Date Granted

The Continued Prosecution Application (CPA) request deposited on _____ is improper under 37 CFR 1.53(d) and has not been granted a filing date for reason(s) indicated below:

Any assertions that the above-mentioned CPA request is proper under 37 CFR 1.53(d) must be by way of petition directed to the attention of the Office of Petitions. Any such petition must be accompanied by the \$130.00 petition fee (37 CFR 1.17(i)). If the petition alleges that no defect exists, a request for refund of the petition fee may be included in the petition.

A petition under 37 CFR 1.53(e) as discussed above must be submitted within **TWO MONTHS** of the date of this notice (37 CFR 1.181(f)). **THIS TIME LIMIT MAY NOT BE EXTENDED PURSUANT TO 37 CFR 1.136.** Failure to timely file a petition under 37 CFR 1.53(e) will result in the CPA request being retained in the file of the prior application but treated as never having been filed, in which case applicant may request a refund of the CPA filing fee (if submitted) less the \$130.00 handling fee (37 CFR 1.21(n)).

- ☐ 1. The prior application is not a complete (37 CFR 1.51(b)) application or the national stage of a PCT international application that is in compliance with 35 U.S.C. 371.
- ☒ 2. The request for a CPA was not filed before the payment of the issue fee on the prior application. The issue fee was paid on the prior application on 12/13/99.
- ☐ 3. The request for a CPA was not filed before the abandonment of, or termination of proceedings on, the prior application. The prior application was abandoned, or proceedings terminated on _____.
- ☐ 4. A petition for an extension of time under 37 CFR 1.136(a) accompanied by the appropriate fee (37 CFR 1.17(a)) are necessary to establish copendency between the prior application and this CPA request.
- ☐ 5. OTHER: _____

A copy of this notice MUST be returned with the reply.

Jaqueline Dickerson
Direct any questions about this Notice to:

Jaqueline Dickerson

Examining Group 2746

(703) 306-5485



Assistant Commissioner for patents
Box CPA
Washington, D.C. 20231

Docket No. 1090-006
Express Mail No. EL384499714US

CONTINUED PROSECUTION APPLICATION REQUEST TRANSMITTAL

Transmitted herewith for filing is the patent application of David J. Luneau for:
CALLING PARTY ANNOUNCEMENT APPARATUS. This application is a continued
prosecution application of U.S. Patent Application Serial No. 08/660,814, filed June 10,
1996.

Papers enclosed are:
Post Card
Express Mail Certificate

RECEIVED

JUN 6 2000

Fee Calculations:
Regular application – small entity
Total Claims – 0 Extra
Independent Claims – 0 Extra
Multiple Dependant Claims – None

OFFICE OF PETITIONS
DEPUTY A/C PATENTS

The application is being filed without the filing fee. In that the specification, claims and
name of the actual inventors has been provided, pursuant to 37 C.F.R. §1.53 (b), the
enclosed application should be accorded to the Express Mail Certificate date under 37
C.F.R. §1.10(c).

Respectfully submitted,

William B. Ritchie
Attorney for Applicant
Reg. No. 33,118
43 Jackson Street
Concord, NH 03301
603-225-5212

Exhibit B

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of

Luneau, David J.

Serial No. 08/660,814

Filed: June 10, 1996

For: CALLING PARTY ANNOUNCEMENT
APPARATUS



Assistant Commissioner for Patents
Box CPA
Washington, D.C. 20231

EXPRESS MAIL CERTIFICATE

Express Mail Label Number: EL384499714US

Date of Deposit 3-14-00

I hereby certify that the following attached paper and fee:

Continued Prosecution Application Request Transmittal

as being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10 on the date indicated above and is addressed to the Assistant Commissioner of Patents and Trademarks, Washington, D.C. 20231.

William B. Ritchie, Esq.

Exhibit C

Exhibit D

Attorney Docket No. 100-006 Client 100-006
Date of Deposit 03/14/00

THE PATENT & TRADEMARK OFFICE
MAR 14 2000
PATENT & TRADEMARK OFFICE

The Patent & Trademark Office acknowledges and has stamped herewith the date of receipt of the items listed below concerning the following:
☒ Patent Application Serial No. 08/1600, 814 Filed: 10-10-96
☐ Patent No. _____ Issued: _____

☒ Express Mail Certificate, Label No. E138449714
☐ Transmittal Letter ☐ Small Entity Form ☐ Declaration/Power of Attorney
☐ Specification, _____ number of pages ☐ Notice to File Missing Parts
☐ Claims, _____ Independent _____ Multiple Dependent _____
☐ Abstract ☐ _____ Sheets of Drawings ☐ Petition to Make Special
☐ Recordation Form Cover Sheet ☐ Transmittal of New Drawings
☐ Assignment ☐ Petition for Extension of Time ☐ Fee Addressee
☐ Amendment ☐ Appeal Brief ☐ Status Inquiry ☐ Notice of Appeal
☐ Certificate of Mailing ☐ Issue Fee Transmittal ☐ Application w/ Missing Parts
☐ Check in the Amount of \$ _____
☐ Deduct Fee of \$ _____ from Deposit Account #500229
Other CPA



UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

Address: COMMISSIONER OF PATENTS AND TRADEMARK
Washington, D.C. 20231

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO./TITLE
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WILLIAM B. KITCHIE
43 JACKSON STREET
CONCORD, NH 03301

LM41/0407

NGUYEN, L

2746

DATE MAILED: 04/07/00

#16

NOTICE OF IMPROPER CPA FILING UNDER 37 CFR 1.53(d)
No Filing Date Granted

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A copy of this notice MUST be returned with the reply.

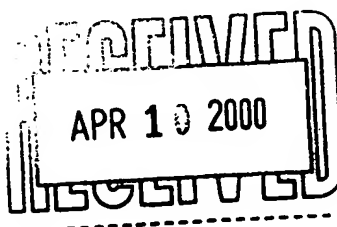
Jacqueline Dickerson

Direct any questions about this Notice to:

Jacqueline Dickerson

Examining Group 2746

(703) 306-5485



ISSUE NOTIFICATION



UNITED STATES DEPARTMENT OF COMMERCE

Patent and Trademark Office
ASSISTANT SECRETARY AND COMMISSIONER
OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

APPLICATION NUMBER	PATENT NUMBER	ISSUE DATE	ATTORNEY DOCKET NO.
08/660,814	6038443	03/14/00	1090-006

8443
WILLIAM B RITCHIE
43 JACKSON STREET
CONCORD NH 03301

7707



APPLICANT(S) DAVID J. LUNEAU, HOPKINTON NEW HAMPSHIRE

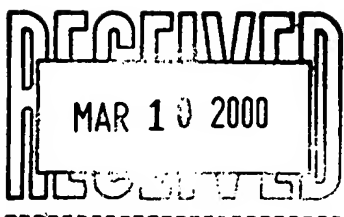


Exhibit A